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14
15 **IN THE UNITED STATES DISTRICT COURT**

16 **DISTRICT OF NEVADA**

17 PHILLIP J. LYONS,
18 Plaintiff,
19 vs.
20 PATRICIA LEONHARDT, *et al.*,
21 Defendants.

Case No. 03:05-CV-400-JCM-VPC

**STIPULATION AND
PROPOSED ORDER RE
RESCHEDULING OF TRIAL**

22 **I.**
23 **STIPULATION**

24 Defendants PAUL LUNKWITZ, SANTERREN WARD, and JAY BARTH
25 ("Defendants"), by and through counsel, Catherine Cortez Masto, Attorney General Of
26 The State Of Nevada, William J. Geddes, Senior Deputy Attorney General, Brian Hagen,
27 Deputy Attorney General, and Plaintiff PHILLIP J. LYONS, by and through his counsel of
28

1 record, Travis N. Barrick, Esq., of GALLIAN, WELKER, OLSON & BECKSTROM, LC,
2 herein file their *Stipulation and Proposed Order Re Rescheduling of Trial*.

3 **RECITALS**

4 1. WHEREAS trial in the above-captioned matter was most recently scheduled
5 for Monday, June 17, 2013, on the Court's stacked calendar;

6 2. WHEREAS, on June 12, 2013, shortly before 1:30 p.m., the Court vacated
7 the Calendar Call, scheduled for 1:30 p.m. that same day;

8 3. WHEREAS, on June 12, 2013, the Court's Clerk met with counsel for the
9 parties outside the courtroom and indicated that trial would not proceed on Monday, June
10 17, 2013, due to the Court's congested trial calendar;

11 4. WHEREAS, on June 12, 2013, the Court's clerk suggested possible,
12 alternative dates for the rescheduling of trial in the above-captioned matter, as follows:

13 a. The week of July 8-12, 2013;

14 b. The week of July 22-26, 2013 (which the Court's clerk suggested was a
15 preferred date, inasmuch as this case would likely be first on the Court's
16 stacked calendar, barring some other preferential trial-setting that might
17 arise, such as a criminal case);

18 c. The week of August 5-9, 2013;

19 d. The week of August 19-23, 2013;

20 5. WHEREAS, Plaintiff's Counsel would prefer to continue the trial to a later
21 date, preferably in September of 2013, but would not oppose an earlier trial-
22 setting, subject to scheduling availability of counsel, parties, and witnesses;

23 6. WHEREAS, Defense Counsel would prefer to reschedule trial as soon as
24 possible, due to cost considerations of having the re-prepare this case for
25 trial, should the preparation go stale, and given the age of this case (over
26 eight years' old);

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1 7. WHEREAS, counsel for the parties anticipate, but cannot guarantee, that
2 this trial might take four (4) days to try, on the following possible time
3 schedule:

4 a. Day 1

- 5 i. Jury Selection;
- 6 ii. Preliminary Instructions by the Judge;
- 7 iii. Plaintiff's Opening Statement;
- 8 iv. Defendants' Opening Statement;
- 9 v. 2-3 hours of Plaintiff's Case-in-Chief.

10 b. Day 2

- 11 i. Plaintiff's Continued Case-in-Chief and Rest;
- 12 ii. Defendants' Begin their Case-in-Chief;

13 c. Day 3

- 14 i. Defendants Continued Case-in-Chief and Rest¹;

15 d. Day 4

- 16 i. Closing Statements;
- 17 ii. Jury Instructions; and
- 18 iii. Verdict.

19 8. WHEREAS, Plaintiff's counsel has a one-day, family-court trial scheduled
20 for Monday, July 22, 2013, for which he has sought to be released as trial
21 counsel, for reasons unrelated to this case or trial, and for which the
22 outcome of Plaintiff's counsel's request is not yet known; and

23 9. WHEREAS, if Plaintiff's counsel is not permitted to withdraw from his
24 family-court trial scheduled for Monday, July 22, 2013, trial in the above-
25 captioned matter could begin on the following day, Tuesday, July 23, 2013;

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27 ¹ If Plaintiff does not rest his case early enough on Day 2 of trial, then Defendants would likely need
28 additional time on Day 4 to complete their case-in-chief.

1 **STIPULATION**

2 THEREFORE, the parties stipulate to jointly petition the Court, and hereby do, to
3 reschedule the trial in the above-captioned matter for the week of July 22-26, 2013, with
4 the understanding that the case would begin not sooner than Tuesday, July 23, 2013, but
5 if Plaintiff's Counsel is permitted to withdraw as counsel in his family-law case (set for trial
6 on Monday, July 22, 2013), then the trial might begin as early as Monday, July 22, 2013,
7 subject to sufficient notice and availability of counsel, the parties, and witnesses to
8 comply with such an earlier start date.

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12 DATED this 19th day of June, 2013.

DATED this 19th day of June, 2013.

13 CATHERINE CORTEZ MASTO
14 Attorney General

15 By:

By: 

16 _____
17 Travis Barrick, #9257
18 GALLIAN, WILCOX, WELKER,
19 OLSON & BECKSTROM, LC
20 540 E. St. Louis Avenue
21 Las Vegas, Nevada 89104
22 Attorneys for Plaintiff

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Attorneys for the Defendants


II.

ORDER

THE COURT, having reviewed the preceding *Stipulation*, and GOOD CAUSE appearing therefore, HEREBY GRANTS the relief requested therein: Trial in the above-captioned matter is hereby rescheduled on the Court's stacked calendar, for the week of July 22, 2013, with the understanding that trial in this case would begin not sooner than July 22, 2013, unless stipulated otherwise by Counsel, subject to the availability of the Court to start the trial on any such sooner date. Calendar call scheduled for July 17, 2013, at 1:30 pm courtroom 6A.

IT IS SO ORDERED.

Dated: July 8, 2013.


UNITED STATES DISTRICT JUDGE

1 **STIPULATION**

2 THEREFORE, the parties stipulate to jointly petition the Court, and hereby do, to
3 reschedule the trial in the above-captioned matter for the week of July 22-26, 2013, with
4 the understanding that the case would begin not sooner than Tuesday, July 23, 2013, but
5 if Plaintiff's Counsel is permitted to withdraw as counsel in his family-law case (set for trial
6 on Monday, July 22, 2013), then the trial might begin as early as Monday, July 22, 2013,
7 subject to sufficient notice and availability of counsel, the parties, and witnesses to
8 comply with such an earlier start date.

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11
12 DATED this 19th day of June, 2013.

DATED this 19th day of June, 2013.

13 CATHERINE CORTEZ MASTO
14 Attorney General

15 By: 

By: 

16 Travis Barrick, #9257
17 GALLIAN, WILCOX, WELKER,
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